REMARKS

Claims 19 and 28-36 are pending in this application. By this Amendment, Claims 19, 28, 29, and 31 are amended, Claims 22, 25 and 26 are canceled without prejudice or disclaimer of the subject matter contained therein, and Claims 32-36 are added. Favorable reconsideration is respectfully requested in light of the following Remarks.

I. The Claims Satisfy The Requirements of 35 USC §112, Second Paragraph

The Office action rejects Claim 34 under 35 USC §112, second paragraph asserting that it is unclear what the two generally U-shaped portions are portions of. Applicant respectfully disagrees with this assertion.

As further defined in Claim 34, the two generally U-shaped portions are portions of the brake pad and are located between the three spring portions. Withdrawal of the rejection is respectfully requested.

II. The Claims Define Patentable Subject Matter

1. The Office Action rejects Claims 19, 28, 29 and 31-35 under 35 USC §102(b) over Winter (DE 197 05 803, hereinafter "Winter"). The rejection is respectfully traversed.

Independent Claim 31 specifies, *inter alia*, a brake pad and brake piston assembly comprising a brake piston having an outer surface encircled by a circumferential groove, and a retaining spring coupled to a brake pad, wherein the retaining spring engages the circumferential piston groove, thereby detachably coupling the brake pad to the piston. The retaining spring includes two spring elements arranged opposite each other with respect to the piston axis, each spring element having a first spring portion which applies an axial spring force at a contact point location on opposite sides of the piston to urge the brake pad against the piston, and a third spring element arranged between said two spring elements having a second spring portion which applies a radial spring force to the brake pad at one contact point location in a vertical direction which is generally perpendicular to the piston axis.

Independent Claim 32 specifies, *inter alia*, a brake pad and brake piston assembly including the feature of a retaining spring comprising a spring element including three spring portions, two of the three spring portions arranged opposite each other with respect to the piston axis which applies an axial spring force at a contact point location on opposite sides of

the piston to urge the brake pad against the piston, and the third spring portion arranged between the other two spring portions which applies a radial spring force to the brake pad at one contact point location in a vertical direction which is generally perpendicular to the piston axis.

Winter discloses a single spring element 4 disposed with a groove 5 of a piston 2. The spring element 4 includes a semi-circular section 4a that is in contact with the piston 2, an arm 4b and a section 4c, 4d that is bent out and down, respectively.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. *See MPEP §2131.* Contrary to the Office action that all of the elements of Claims 31 and 32 are disclosed in Winter, at least the feature of a retaining spring including two spring elements arranged opposite each other with respect to the piston axis, each spring element having a first spring portion which applies an axial spring force at a contact point location on opposite sides of the piston to urge the brake pad against the piston, and a third spring element arranged between said two spring elements having a second spring portion which applies a radial spring force to the brake pad at one contact point location in a vertical direction which is generally perpendicular to the piston axis, is not disclosed, taught or suggested in Winter, so the rejection is unsupported by the art and should be withdrawn.

For at least this reason, Claims 31 and 32 are allowable over the applied art. Claims 19, 28 and 29, which depend from Claim 31, and Claims 33-35, which depend from Claim 32 are likewise allowable over the applied art. Withdrawal of the rejection is respectfully requested.

2. The Office Action rejects Claim 30 and 36 under 35 USC §103(a) over Winter in view of Verbeeten et al. (U.S. Patent No. 5,8163,370, hereinafter "Verbeeten"). The rejection is respectfully traversed.

Applicant agrees with the Office action that Winter fails to disclose a retaining plate configured as a damping plate. However, Claim 30 depends from Claim 31, Claim 36 depends from Claim 32. It is respectfully submitted that there is no mention in Verbeeten of at least the feature of a retaining spring including two spring elements arranged opposite each other with respect to the piston axis, each spring element having a first spring portion which applies an axial spring force at a contact point location on opposite sides of the piston to urge the brake pad against the piston, and a third spring element arranged between said two spring

elements having a second spring portion which applies a radial spring force to the brake pad at one contact point location in a vertical direction which is generally perpendicular to the piston axis, as recited in Claims 31 and 32. Thus, the combination of Winter and Verbeeten does not disclose all the claim limitations, as recited in Claims 31 and 32, and the Office action fails to establish a *prima facie* case of obviousness. *See MPEP §2143.*

For at least this reason, Claims 30 and 36 allowable over the applied art, taken singly or in combination. Withdrawal of the rejection is respectfully requested.

III. Conclusion

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance. Favorable consideration and prompt allowance of the application is earnestly solicited.

Should Examiner Pezzlo believe anything further would be desirable in order to place the application in better condition for allowance, the Examiner is invited to contact the undersigned attorney at the telephone number listed below.

It is believed that any additional fees due with respect to this paper have already been identified. However, if any additional fees are required in connection with the filing of this paper, permission is given to charge account number 18-0013 in the name of Rader, Fishman and Grauer PLLC.

Respectfully submitted,

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